IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 36970 of 2007(A)

PETITIONER:

S.PULIKESI,IPS,ADDITIONAL DIRECTOR GENERAL OF POLICE,(TRAINING),POLICE TRAINING COLLEGE,VAZHUTHACAUD,THIRUVANANTHAPURAM.

BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR
SMT.SUSHYA RAJAN

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CENTRAL BUREAU OF INVESTIGATION, NEW DELHI.

3. THE KERALA STATE CIVIL SUPPLIES CORPORATION LIMITED,REPRESENTEDN BY ITS MANAGING DIRECTOR,KADAVANTHRA,COCHIN-20.

BY ADV. SMT.MOLLY JACOB,SC,SUPPLYCO
ADDL. ADV. GENERAL SRI. VENGANOOR CHANDRASEKHARAN
SRI. S. SREEKUMAR – SC CBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)No.36970 OF 2007

Dated this the 17th day of December, 2007

JUDGMENT

The petitioner challenges Ext.P2 report of the Commission of Enquiry under the Commissions of Enquiry Act, 1952, on the allegations of irregularities and corruption in the Kerala State Civil Supplies Corporation and the CBI enquiry ordered by the Government on the basis of the findings in Ext.P2. The contention raised in this writ petition is that Ext.P2 report has been drawn up without issuing notice under Section 8B of the Commission of Enquiry Act 1952 to the petitioner although he was prejudicially affected by the report and therefore Ext.P2 report, in so far as it adversely affects the petitioner's reputation, and the CBI enquiry ordered based on Ext.P2 enquiry report are liable to be quashed. The petitioner relies on the decision of the Supreme Court in **STATE OF BIHAR** Vs. **LAL KRISHNA ADVANI AND OTHERS** **[2003 (8) SCC 361]** in support of his case.

2. I have heard the learned counsel for the petitioner as also the learned additional Advocate General appearing on behalf

of the 1st respondent, the learned standing counsel for the 2nd respondent and the learned standing counsel for the 3rd respondent.

3. No doubt it is true that if adverse finding of remarks are to be made against any person in any report of a Commission of enquiry appointed under the Commissions of Enquiry Act, such findings or remarks can be entered only after issuing notice under Section 8B of the Commissions of Enquiry Act 1952 to that person. However, in this case the petitioner was not able to point out from Ext.P2 report that any findings or remarks whatsoever adverse to the petitioner has been made therein. The contention of the petitioner is that in page 101 of Ext.P2, there is a specific reference to the Managing Directors of the Corporation from 12.10.2001 who were police officers of higher ranks. According to the petitioner, the petitioner being one of the Managing Directors during the relevant period the observation that substantial loss has been caused to the 3rd respondent during the said period would certainly affect his reputation, necessitating a notice under Section 8B. The relevant paragraph of Ext.P2 reads thus:

> "The Managing Directors of the Corporation from 12.10.2001 were Police Officers of higher ranks. So investigation by Central Bureau of Investigation or any other Agency from outside State is feasible.

The petitioner also relies on finding number 2 in Ext.P2, which reads thus:

> "The Corporation has sustained a loss of minimum Rs.33,85,71,000/- (Rupees Thirty three Crores, Eighty five lakhs and seventy one thousand only) for the period 2002-2003, 2003-2004 and first half of 2005."

I am of opinion that these findings cannot be regarded as findings or remarks against the petitioner and are not sufficient to hold that the petitioner should have been issued a notice under Section 8B of the Commission of Enquiry Act before making those remarks. Therefore, I do not find any merit in this writ petition and accordingly the same is dismissed.

S. SIRI JAGAN, JUDGE

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